

**Senate File 118 - Introduced**

SENATE FILE 118

BY QUIRMBACH and DVORSKY

**A BILL FOR**

1 An Act providing law enforcement authorities with access to  
2 ownership and control information of domestic business  
3 entities.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 82.1 Definitions.

2 As used in this chapter, unless the context otherwise  
3 requires:

4 1. "*Appropriate request*" means a civil, criminal, or  
5 administrative subpoena or summons from a state, local, or  
6 federal law enforcement authority.

7 2. "*Domestic business entity*" means a business entity  
8 organized under the laws of this state that has no more than  
9 fifty interest holders on the effective date of its corporate  
10 or organizational existence, including but not limited to a  
11 limited liability company as defined in section 489.102; a  
12 corporation organized pursuant to chapter 490; a nonprofit  
13 corporation organized under chapter 504; a partnership,  
14 limited partnership, limited liability partnership, or limited  
15 liability limited partnership as provided in chapter 486A  
16 or 488; or a cooperative association or other cooperative  
17 organized under this chapter or chapter 497, 498, 499, or 501,  
18 but it does not include any of the following:

19 a. An entity licensed or authorized to do business as a  
20 bank, savings and loan association, credit union, or other  
21 depository institution, trust company, insurance company,  
22 public utility, or securities or commodities broker or dealer.

23 b. An entity registered as an investment company under the  
24 federal Investment Company Act of 1940.

25 c. An entity registered as an investment advisor under the  
26 federal Investment Advisor Act of 1940.

27 d. An entity in which one or more entities of the types  
28 described in paragraphs "a" through "c" holds, directly or  
29 indirectly, a majority of the outstanding interests entitled to  
30 vote on any issue.

31 e. An entity that holds, directly or indirectly, a majority  
32 of the outstanding interests entitled to vote on any issue in  
33 an entity of a type described in paragraphs "a" through "c".

34 f. An entity registered as an exempt organization by the  
35 internal revenue service.

1     3. *"Governing individual"* means an individual who is  
2 designated to be responsible for governing a domestic business  
3 entity, including but not limited to a manager of a limited  
4 liability company; a director of a corporation; a director of  
5 a nonprofit corporation; a general partner of a partnership,  
6 limited partnership, limited liability partnership, or limited  
7 liability limited partnership; or a director of a cooperative  
8 association or other cooperative.

9     4. *"Interest holder"* means a person who holds an interest  
10 in a domestic business entity, including but not limited to  
11 a member of a limited liability company; a shareholder of a  
12 corporation; a member of a nonprofit corporation; a member  
13 of a general or limited partner of a partnership, limited  
14 partnership, limited liability partnership, or limited  
15 liability limited partnership; or a member of a cooperative  
16 association or other cooperative.

17     5. *"Person"* means the same as defined in section 4.1.

18     6. *"Transferable interest"* means an interest holder's right  
19 to receive distributions.

20     7. *"Transferee"* means a person to which all or part of a  
21 transferable interest has been transferred, whether or not the  
22 transferee is an interest holder.

23     Sec. 2. NEW SECTION. **82.2 Access to ownership and control**  
24 **information by law enforcement authorities.**

25     1. A domestic business entity, upon receiving an  
26 appropriate request from a state, local, or federal law  
27 enforcement authority, shall provide in a timely manner  
28 the following information to the requesting law enforcement  
29 authority:

30     a. The name and last known address of each current interest  
31 holder and transferee of which the domestic business entity has  
32 actual knowledge.

33     b. The jurisdiction whose laws govern the internal affairs  
34 of any current interest holder or transferee that is an entity.

35     c. The name and residential or business address of each

1 current governing individual.

2 *d.* A copy of each current governing individual's passport,  
3 driver's license, or government-issued nondriver identification  
4 card.

5 *e.* Records regarding the process by which the governing  
6 individuals of the domestic business entity are elected or  
7 otherwise designated.

8 *f.* Records indicating the voting power of each current  
9 interest holder or records describing the manner in which each  
10 interest holder's voting power in the domestic business entity  
11 is determined.

12 *g.* The name of all individuals responsible for producing the  
13 information provided to a law enforcement authority pursuant  
14 to this subsection.

15 *h.* A certification as required under subsection 2.

16 2. A domestic business entity providing information to a law  
17 enforcement authority pursuant to subsection 1 shall include  
18 a certification, signed under penalty of perjury, that the  
19 information provided accurately reflects the current records of  
20 the domestic business entity.

21 **Sec. 3. NEW SECTION. 82.3 Judicial dissolution.**

22 1. The district court may dissolve a domestic business  
23 entity in a proceeding brought by the attorney general, if it  
24 is established that the domestic business entity materially  
25 failed to comply with an information request pursuant to  
26 section 82.2.

27 2. Venue for a proceeding by the attorney general to  
28 dissolve a domestic business entity pursuant to this section  
29 lies in Polk county.

30 3. It is not necessary to make interest holders or  
31 transferees parties to a proceeding to dissolve a domestic  
32 business entity unless relief is sought against them  
33 individually.

34 4. The court may issue injunctions, appoint a receiver or  
35 custodian pendente lite with all powers and duties the court

1 directs, take other action required to preserve the domestic  
2 business entity's assets wherever located, and carry on the  
3 business of the domestic business entity until a full hearing  
4 can be held.

5 5. *a.* The court may appoint one or more receivers to wind  
6 up and liquidate the business and affairs of the domestic  
7 business entity. The court shall hold a hearing, after  
8 notifying all parties to the proceeding and any interested  
9 persons designated by the court, before appointing a receiver.  
10 The court appointing a receiver has jurisdiction over the  
11 domestic business entity and all its property wherever located.

12 *b.* The court may appoint an individual or an entity  
13 authorized to transact business in this state as a receiver.  
14 The court may require the receiver to post bond, with or  
15 without sureties, in an amount the court directs.

16 *c.* The court shall describe the powers and duties of the  
17 receiver in its appointing order, which may be amended from  
18 time to time. Among other powers, the receiver may do either  
19 or both of the following:

20 (1) Dispose of all or any part of the assets of the domestic  
21 business entity wherever located, at a public or private sale,  
22 if authorized by the court.

23 (2) Sue and defend in the receiver's own name as receiver of  
24 the domestic business entity in all courts of this state.

25 *d.* The court from time to time during the receivership may  
26 order compensation paid and expenses paid or reimbursed to the  
27 receiver from the assets of the domestic business entity or  
28 proceeds from the sale of the assets.

29 6. *a.* If after a hearing the court determines that grounds  
30 for dissolution as described in subsection 1 exist, the court  
31 may enter a decree dissolving the domestic business entity and  
32 specifying the effective date of the dissolution, and the clerk  
33 of court shall deliver a certified copy of the decree to the  
34 secretary of state, who shall file it.

35 *b.* After entering the decree of dissolution, the court shall

1 direct the winding up and liquidation of the domestic business  
2 entity's business and affairs in accordance with the laws of  
3 this state.

4 Sec. 4. NEW SECTION. 82.4 Limitation of liabilities.

5 1. a. An individual who produces the information required  
6 under section 82.2, subsection 1, shall not be held personally  
7 liable to the domestic business entity or its interest holders  
8 or transferees for producing, upon an appropriate request, the  
9 information required under section 82.2, subsection 1.  
10 b. An individual who produces the information required under  
11 section 82.2, subsection 1, shall not be held personally liable  
12 for any inaccuracy in or omission from the information required  
13 under section 82.2, subsection 1, unless the production of such  
14 information is reckless or involves intentional misconduct or  
15 criminal conduct.

16 2. The interest holders, transferees, and governing  
17 individuals of a domestic business entity shall not be held  
18 personally liable for the debts, obligations, or other  
19 liabilities of the domestic business entity solely arising from  
20 its compliance or noncompliance with section 82.2.

21 Sec. 5. Section 602.8102, Code 2017, is amended by adding  
22 the following new subsection:

23 NEW SUBSECTION. 21. Certify a copy of a decree of  
24 dissolution of a domestic business entity to the secretary of  
25 state as provided in section 82.3, subsection 6, paragraph "a".

26 EXPLANATION

27 The inclusion of this explanation does not constitute agreement with  
28 the explanation's substance by the members of the general assembly.

29 This bill provides law enforcement authorities with access  
30 to the ownership and control information of domestic business  
31 entities.

32 The bill includes several definitions. The bill defines  
33 "appropriate request" to mean a civil, criminal, or  
34 administrative subpoena or summons from any state, local, or  
35 federal law enforcement authority. "Domestic business entity"

1 is defined as a business entity organized under Iowa law that  
2 has no more than 50 interest holders on the effective date of  
3 its corporate or organizational existence, including but not  
4 limited to limited liability companies, corporations, nonprofit  
5 corporations, partnerships, limited partnerships, limited  
6 liability partnerships, limited liability limited partnerships,  
7 cooperative associations, and cooperatives. However, the  
8 definition of "domestic business entity" does not include any  
9 of the following: entities licensed to do business as banks  
10 or other depository institutions, trust companies, insurance  
11 companies, or securities or commodities brokers; entities  
12 registered as investment companies under federal law; entities  
13 registered as investment advisors under federal law; entities  
14 controlled by or under the control of any entity not included  
15 in the definition of "domestic business entity"; or entities  
16 registered as exempt organizations by the internal revenue  
17 service. "Governing individual" is defined as an individual  
18 who is designated to be responsible for governing a domestic  
19 business entity, including but not limited to directors and  
20 general partners. "Interest holder" is defined as a person who  
21 holds an interest in a domestic business entity, including but  
22 not limited to shareholders, general or limited partners, or  
23 members. "Person" is the same as defined in Code section 4.1.  
24 "Transferable interest" is defined as an interest holder's  
25 right to receive distributions. "Transferee" is defined as a  
26 person to which all or part of a transferable interest has been  
27 transferred.

28 The bill requires a domestic business entity to provide  
29 ownership and control information, in a timely manner, to  
30 a requesting law enforcement authority upon receiving an  
31 appropriate request from the authority. Such information must  
32 include all of the following: the names and addresses of  
33 current interest holders and known transferees; the governing  
34 jurisdiction of any current interest holder or transferee that  
35 is an entity; the names and addresses of current governing

1 individuals; copies of government-issued identification  
2 documents of current governing individuals; records regarding  
3 the process by which governing individuals are elected;  
4 records regarding voting power; the names of the individuals  
5 responsible for producing the information; and a certification  
6 that the information provided is accurate, signed under penalty  
7 of perjury.

8     The bill authorizes the district court to dissolve a  
9 domestic business entity in a proceeding brought by the  
10 attorney general if the entity materially fails to comply  
11 with an information request required under the bill. Venue  
12 for such a proceeding is in Polk county. A court in a  
13 proceeding brought to dissolve a domestic business entity  
14 may issue injunctions, appoint receivers or custodians, and  
15 take any other action needed. However, a court must hold a  
16 hearing prior to appointing a receiver. Such a receiver may  
17 be an individual or an entity authorized to do business in  
18 the state and may be required to post bond. The court must  
19 describe the receiver's powers and duties in its appointing  
20 order. The court may order the domestic business entity to  
21 compensate or reimburse the receiver for expenses from time to  
22 time. If after a hearing the court determines that grounds  
23 for dissolution exist, it may enter a decree dissolving the  
24 domestic business entity on a specific date, a certified copy  
25 of which is received and filed by the secretary of state. Such  
26 a domestic business entity must wind up and liquidate its  
27 business and affairs in accordance with Iowa law.

28     The bill prohibits individuals responsible for producing  
29 information required under the bill from being held personally  
30 liable for producing the information after receiving an  
31 appropriate request or for any inaccuracies or omissions from  
32 the information produced, except if the individual acts with  
33 recklessness or the individual's act involves intentional  
34 misconduct or criminal conduct. Interest holders, transferees,  
35 and governing individuals cannot be held personally liable for

1 a domestic business entity's compliance or noncompliance with  
2 the bill.

3 The bill adds certifying a copy of a decree of dissolution  
4 of a domestic business entity to the secretary of state to  
5 the list of general duties for the office of the clerk of the  
6 district court in Code section 602.8102.